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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/816,413	03/23/2001	Anthony Frank Menninger	41556/04006 (RS11P019)	9781

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EXAMINER

ZEENDER, FLORIAN M

ART UNIT PAPER NUMBER

3627

DATE MAILED: 11/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/816,413

Applicant(s)

MENNINGER ET AL.

Examiner

F. Ryan Zeender

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,6-9,12-15 and 18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,6-9,12-15 and 18 is/are rejected.
- 7) ☒ Claim(s) 1-3,6-9,12-15 and 18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 8/12/2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

Claims 1-3, 6-9, 12-15, and 18 are objected to because of the following informalities: In each of the independent claims, paragraph "g"; it is not clear what the language "and making accessible" refers to. Appropriate correction/clarification is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-3, 6-9, 12-15, and 18 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Specifically, in each of the independent claims, paragraph "a", the negative limitation, "the goods not being sold on the network" is not supported by the original specification.

Claim Rejections - 35 USC § 103

Claims 1-3, 6-9, 12-15, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shavit et al. in view of Hafner and Park '375.

Shavit et al. disclose, or inherently teach, the limitations of the claims including: a supply chain management computer receiving data from a plurality of independent outlets relating to amount of goods sold; forecasting activity in the supply chain using the data (See for example Col. 7, line 19); and generating alerts when there are deviations.

Shavit et al. lack the specific teaching of the data comprising amount of goods sold which sales are not generated on the network; checking/identifying the data for errors; logging the errors; correcting the data; transmitting the log of the error(s) to the outlets; calculating actual and ideal good costs; and tracking data against forecasted sales.

Hafner et al. teach that it is well known to receive point-of-sale data for inventory control and forecasting.

Park teaches an automatic accounting processor that identifies and corrects errors on a real-time basis for businesses.

It would have been obvious to one of ordinary skill in the art to modify Shavit et al. to have the data include amounts of goods sold which sales are not generated on the network and to track data against forecasted sales, in view of Hafner et al., in order for supplier's to manage their retailer's inventory with a minimal amount of human intervention (See Hafner et al. Col. 2, lines 17-25).

It would have been obvious to one of ordinary skill in the art at the time of the invention to further modify Shavit et al. to check the data for errors (See Park, for example, Col. 13, lines 12-28), identify a source of the error(s), and correct the error(s),

in view of Park, in order to have proper financial control of transactions (See Park, for example, Col. 13, lines 1-12).

Further, the transmission of a log of the error(s) to a manager and to the outlets would be an obvious design choice to one of ordinary skill in the art that is well known in the industry in order for the manager and the outlets to determine the reliability of the transaction system and the accounting system.

Still further, it is well known for businesses, particularly franchises, to calculate ideal goods costs and actual costs of goods to determine if goods have been stolen or wasted.

Response to Arguments

Applicant's arguments with respect to all claims have been considered but are moot in view of the new ground(s) of rejection. Further, applicant has not argued against the use of design choice to teach specific limitations; therefore, these teachings have been maintained.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

Art Unit: 3627

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to F. Ryan Zeender whose telephone number is (703) 308-8351. The examiner can normally be reached on Monday-Friday, 8am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bob Olszewski can be reached on (703) 308-5183. The receptionist's phone number for the Technology center is (703) 308-1113.

The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306 for all communications.

F. Zeender
Primary Examiner, A.U. 3627
November 5, 2004

 11/5/04
F. RYAN ZEENDER
PRIMARY EXAMINER